



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-2012-0033]

Notice of Intent to Grant a Buy America Waiver to the Rhode Island Department of Transportation and the National Railroad Passenger Corporation for the Purchase of Two Turnouts and One Crossover

AGENCY: Federal Railroad Administration (FRA), United States Department of Transportation (DOT).

ACTION: Notice of intent to grant Buy America waiver.

SUMMARY: FRA is issuing this notice to advise the public that it intends to grant the Rhode Island Department of Transportation (RIDOT) and the National Railroad Passenger Corporation (Amtrak), a waiver from FRA's Buy America requirement under 49 U.S.C. 24405(a)(2)(B) for the purchase of one No. 20 RH 136RE Turnout, one No. 20 LH 136RE Turnout, and one No. 20 LH Crossover 136RE (Turnouts and Crossover) manufactured by VAE Nortrak North America, Inc. at its plant in Birmingham, Alabama, for use in the Kingston Track Capacity and Platform Improvements Project (Kingston Project). Nortrak will manufacture the Turnouts and Crossover at its plant in Birmingham, Alabama. The Turnouts and Crossover will contain four components (ZU1-60 steel left and right switch point rail sections and Schvihag roller assemblies and plates) not produced in the U.S. The roller assemblies and plates are manufactured in Switzerland, and the ZU1-60 steel switch point rail sections are manufactured in Austria. The total amount of foreign material under this waiver request amounts to approximately \$126,000. The foreign material comprises approximately 8 percent of the Turnouts'

\$350,000 cost or approximately \$56,000 and 10 percent of the Crossover's \$700,000 cost or approximately \$70,000. FRA believes a waiver is appropriate under 49 U.S.C.

24405(a)(2)(B) for the ZUI-60 steel switch point rail sections and roller assemblies and plates because domestically-produced components meeting the specific needs of RIDOT and Amtrak are not currently produced in the U.S.

DATES: Written comments on FRA's determination to grant RIDOT's and Amtrak's Buy America waiver request should be provided to the FRA on or before [INSERT DATE 5 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FRA-2012-0033. All electronic submissions must be made to the U.S. Government electronic site at <http://www.regulations.gov>. Commenters should follow the instructions below for mailed and hand-delivered comments.

(1) Web Site: <http://www.regulations.gov>. Follow the instructions for submitting comments on the U.S. Government electronic docket site;

(2) Fax: (202) 493-2251;

(3) Mail: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Docket Operations, M-30, Room W12-140, Washington, DC, 20590-0001; or

(4) Hand Delivery: Room W12-140 on the first floor of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the "Federal Railroad Administration" and include docket number FRA-2012-0033. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be

subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to <http://www.regulations.gov>. For more information, you may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477), or visit <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. John Johnson, Attorney-Advisor, FRA Office of Chief Counsel, 1200 New Jersey Avenue, SE., Mail Stop 25, Washington, DC 20590, (202) 493-0078, John.Johnson@dot.gov.

SUPPLEMENTARY INFORMATION:

The letter granting RIDOT's and Amtrak's request is quoted below:

Mr. Bernard Reynolds
Vice President and Chief Procurement Officer
National Railroad Passenger Corporation (Amtrak)
60 Massachusetts Avenue NE
Washington, D.C.

Mr. Michael Lewis
Director
Rhode Island Department of Transportation
Two Capitol Hill
Providence, RI 02903

Re: Request for Waiver of Buy America Requirement

Dear Mr. Reynolds and Mr. Lewis:

On January 26, 2015, the Rhode Island Department of Transportation (RIDOT) and the National Railroad Passenger Corporation (Amtrak) requested a waiver from FRA's Buy America requirement to purchase one (1) No. 20 RH 136RE turnout, one (1) No. 20 LH 136RE Turnout, and one (1) No. 20 LH Crossover 136RE (Turnouts and Crossover) manufactured by VAE Nortrak North America, Inc. (Nortrak) for use in the Kingston

Track Capacity and Platform Improvements Project (Kingston Project). Nortrak will manufacture the Turnouts and Crossover at its plant in Birmingham, Alabama, but the Turnouts and Crossover will contain several components (ZUI-60 steel left and right switch point rail sections and Schwiag roller assemblies and plates) not produced in the United States. The total amount of foreign material is approximately \$126,000. For the reasons set forth below, FRA is granting a waiver for the purchase of the Turnouts and Crossover.

FRA believes a waiver is appropriate under 49 U.S.C. § 24405(a)(2)(B) for the ZUI-60 steel switch point rail sections and Schwiag roller assemblies and plates because domestically-produced components meeting the specific needs of RIDOT and Amtrak for this application are not currently “produced in sufficient and reasonably available amount or are not of a satisfactory quality.”

Amtrak has conducted significant market research to locate 100 percent compliant turnouts. Further, Nortrak has advised Amtrak that it is in the process of designing 100% domestic replacements for the Schwiag rollers and plates, and expects to have them fully tested and approved in one to two years. However, Nortrak will not complete the testing and approval process in time for use in the Kingston Project. In addition, Amtrak issued a competitive solicitation for the Turnouts and Crossover and received no Buy America compliant bids.

On January 30, 2015, FRA provided public notice of this waiver request and a 15-day opportunity for comment on its website. FRA also sent an email notice to over 6,000 persons who have signed up for Buy America notices through “GovDelivery.” See <http://www.fra.dot.gov/Page/P0782>. FRA received no comments.

This waiver applies only to the ZUI-60 steel switch point rail sections and Schwiag roller assemblies and plates used in the Turnouts and Crossover installed in the Kingston Project. Pursuant to 49 U.S.C. § 24405(a)(4), FRA will publish this letter granting Amtrak’s and RIDOT’s request in the Federal Register and provide notice of such finding and an opportunity for public comment after which this waiver will become effective.

Questions about this letter can be directed to, John Johnson, Attorney-Advisor, at John.Johnson@dot.gov or (202) 493-0078.

Sincerely,

Sarah Feinberg
Acting Administrator

Issued in Washington, DC on June 22, 2015.

Sarah L. Inderbitzin,
Deputy Chief Counsel.

4910-06-P

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